
From: Brian Burns <brian.burns@smithvillazor.com>
Sent: Wednesday, February 15, 2023 10:19 AM
To: Todres, Andrew; Patrick Smith
Cc: Hennes, David; Bebchick, Lisa
Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

[EXTERNAL]

Andrew – Thank you for the proposal. We agree with it.

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From: Todres, Andrew <Andrew.Todres@ropesgray.com>
Sent: Monday, February 13, 2023 5:21 PM
To: Brian Burns <brian.burns@smithvillazor.com>; Patrick Smith <patrick.smith@smithvillazor.com>
Cc: Hennes, David <David.Hennes@ropesgray.com>; Bebchick, Lisa <Lisa.Bebchick@ropesgray.com>
Subject: FW: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Brian & Pat:

Thanks again for speaking with me today. Per our discussions, a proposed final agreement is below. We are signed off on these terms (subject to the reservation of rights stated in the agreement). Can you please confirm that you are agreed as well?

Thanks,
Andrew

1. Your firm accepts service of the subpoena immediately.
2. By 2/20, reserving all responses and objections to the subpoena, the EVCP provides, in response to the subpoena, a declaration signed by the administrator of the EVCP that:
 - a) attaches the blank release form used;
 - b) states, in sum and substance, that the release form was the exact same for all claimants deemed eligible who received an award and signed a release, with the only difference being that some claimants were permitted to write onto the form one or more individuals or entities to carve out from the release;
 - c) states the total number of claimants who were offered awards who requested permission to carve out Deutsche Bank and/or [REDACTED] from the release: [REDACTED];
 - d) states the total number of claimants who accepted awards who received permission to carve out Deutsche Bank and/or [REDACTED] from the release;

- e) states the total number of claimants who were offered awards who were denied permission to carve out Deutsche Bank and/or [REDACTED] from the release (including, as separate figures, the numbers of such claimants who ultimately (i) declined awards or (ii) accepted awards; and
 - f) provides a chart showing (1) the total number of claimants who applied to the Program; (2) the total number of claimants deemed ineligible (including, as a separate figure, the number that were deemed ineligible for procedural reasons, such as, e.g., failure to submit complete documentation or to fill out a form by the deadline); (3) the total number of claimants deemed eligible who received an award and signed a release; and (4) the total number of claimants deemed eligible who declined an award or did not timely respond within the response deadline.
3. By 3/2, the EVCP serves written responses and objections to the subpoena in respect of the other requests.
 4. Deutsche Bank reserves all rights in respect of all other subpoena requests, including without limitation the right to seek judicial intervention to compel production of the Jane Doe file and other documents requested in the subpoena that the EVCP has heretofore objected to providing.

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From: Todres, Andrew

Sent: Monday, February 13, 2023 9:10 AM

To: 'Brian Burns' <brian.burns@smithvillazor.com>; 'Patrick Smith' <patrick.smith@smithvillazor.com>

Cc: Bebchick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>

Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Brian,

Thanks for speaking with me Friday. As you know, we have in good faith offered to limit our subpoena requests considerably in order to reduce the EVCP's burden and accommodate your client's sensitivities. We unfortunately do not have the time to continue to negotiate further given the case schedule, so here is our revised offer.

1. Your firm accepts service of the subpoena immediately.
2. By 2/20, reserving all responses and objections to the subpoena, the EVCP provides, in response to the subpoena, a declaration signed by the administrator of the EVCP that:
 - a) attaches the blank release form used;
 - b) states, in sum and substance, that the release form was the exact same for all claimants deemed eligible who received an award and signed a release, with the only difference being that some claimants were permitted to write onto the form one or more individuals or entities to carve out from the release;
 - c) states the total number of claimants who were offered awards who requested permission to carve out Deutsche Bank and/or [REDACTED] from the release [REDACTED]

- d) states the total number of claimants who accepted awards who received permission to carve out Deutsche Bank and/or [REDACTED] from the release [REDACTED]
 - e) identifies, by name, all individuals or entities that were permitted to be carved out of any release; and
 - f) provides a chart showing (1) the total number of claimants who applied to the Program; (2) the total number of claimants deemed ineligible (including, as a separate figure, the number that were deemed ineligible for procedural reasons, such as, e.g., failure to submit complete documentation or to fill out a form by the deadline); (3) the total number of claimants deemed eligible who received an award and signed a release; and (4) the total number of claimants deemed eligible who declined an award or did not timely respond within the response deadline.
- 3. By 3/2, the EVCP serves written responses and objections to the subpoena in respect of the other requests.
 - 4. Deutsche Bank reserves all rights in respect of all other subpoena requests, including without limitation the right to seek judicial intervention to compel production of the Jane Doe file and other documents requested in the subpoena that the EVCP has heretofore objected to providing.

Please let us know if you are amenable to these terms as soon as possible. If we cannot reach a prompt agreement on this, we will be required to take other measures in respect of the subpoena on an expedited basis.

Thanks,
Andrew

From: Todres, Andrew
Sent: Friday, February 10, 2023 1:46 PM
To: 'Brian Burns' <brian.burns@smithvillazor.com>; Patrick Smith <patrick.smith@smithvillazor.com>
Cc: Bebachick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>
Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Brian,

As discussed, a copy of the form release we identified online is linked here: <https://www.documentcloud.org/documents/21154458-epstein-vcp-release-updated-6192020> .

Per your e-mail and our discussion, we will reach out to Plaintiff to obtain the materials she submitted to or received from the EVCP (and to disclose plaintiff's name to you), and we understand that you will get back to us on providing (i) a copy of the form release as well as any releases that differ from the form release (with redactions to the claimants' names), (ii) with respect to the chart apart from the other items you agreed to provide, the number of claimants who were denied eligibility on procedural grounds, and (iii) for the awards issued, the lowest amount, the highest amount, and the median.

We also would ask you again to reconsider your position concerning the other materials in the EVCP's files pertaining solely to the Plaintiff in our case. We need these materials and are not willing to accept nothing: The EVCP's assessment of Plaintiff is highly relevant to numerous issues in our case: Plaintiff alleges that she was extensively abused and suffered severe emotional and psychological trauma. There could be nothing more relevant to evaluating those allegations than the materials reflecting the neutral assessment conducted by the EVCP, which cannot possibly consist of attorney-client privileged communications, let alone work product: the EVCP was itself a "voluntary, non-adversarial claims resolution program," so any assessments of victims were not prepared in anticipation of litigation. You will be able to provide any such materials to us pursuant to the Protective Order in the case, and we will consent to your confidentiality designations. If there are any specific materials that you believe merit protection, e.g., communications where Jordie or other EVCP representatives or consultants communicated with counsel on a particular issue pertaining to Plaintiff, or Jordie was consulted on a legal issue, we are not interested in that correspondence.

We look forward to hearing back from you as soon as possible. All of Deutsche Bank's rights are reserved.

Thanks,
Andrew

From: Brian Burns <brian.burns@smithvillazor.com>
Sent: Friday, February 10, 2023 11:57 AM
To: Todres, Andrew <Andrew.Todres@ropesgray.com>; Patrick Smith <patrick.smith@smithvillazor.com>
Cc: Bebchick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>
Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Andrew – Thank you for this proposal. Please see our responses to your three bullet points below in bold and marked with “SV response.” We are also available to discuss by phone too.

- The file for the single Jane Doe Plaintiff in our case (Claim Forms, supporting documentation, Eligibility Decision, meeting/interview notes);
 - **SV response:** Please note that we do not know with certainty the identity of the named Jane Doe plaintiff, as it does not appear to be on the docket or in the subpoena. We propose that you obtain these requested materials from plaintiff's counsel, as we expect the plaintiff/her counsel will have anything she submitted to or received from the EVCP. If, as Lisa mentioned on the phone, the plaintiff insists that the Administrator's consent is required before the plaintiff produces the materials, we will provide that consent (although the Protocol does not require the Administrator's consent for participants to disclose any information regarding their claim, including their submissions or documents they received from the EVCP). If this procedure presents issues, we are willing to continue discussing this request. Please note that we will not produce internal notes of meetings or interviews or any other internal documents, which are privileged and not relevant.
- Documents responsive to Request Nos. 3 & 4; and
 - **SV response re Request 3:** Re request 3 for all releases, the Administrator is willing to produce a copy of the form release the EVCP used, in blank. The Administrator will not produce executed releases, as that would reveal the identity of claimants.
 - **SV response re Request 4:** Re request 4 for copies of all payments, the Administrator is willing to identify the aggregate amount paid to all claimants in the EVCP.
- A single chart containing the information responsive to Request No. 9.
 - **SV response:** The Administrator is willing to provide a single chart showing (1) total number of claimants who applied to the Program; (2) total number of claimants deemed ineligible; (3) total number of claimants deemed eligible who received an award and signed a release; (4) total number of claimants deemed eligible who declined an award or did not timely respond within the response deadline. The Administrator will not provide the reasons for ineligibility determinations (or reasons for any other determinations), as that internal analysis is privileged and not relevant.

Again, thank you for the proposal and let us know if you want to discuss.

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From: Todres, Andrew <Andrew.Todres@ropesgray.com>

Sent: Thursday, February 9, 2023 4:33 PM

To: Brian Burns <brian.burns@smithvillazor.com>; Patrick Smith <patrick.smith@smithvillazor.com>

Cc: Bebchick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>

Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Brian,

Unfortunately, given the expedited schedule we are on, we cannot agree to a written response and objection deadline three weeks away if you are not going to be producing documents by then. To reduce burden and accommodate your requested timing, we are willing for now to limit the requests in the subpoena to the following documents, provided you agree to produce them by 2/28 (with the EVCP reserving all objections to the subpoena, and Deutsche Bank reserving all rights to seek additional documents):

- The file for the single Jane Doe Plaintiff in our case (Claim Forms, supporting documentation, Eligibility Decision, meeting/interview notes);
- Documents responsive to Request Nos. 3 & 4; and
- A single chart containing the information responsive to Request No. 9.

All of these documents should be readily available and easy to produce.

Please let us know if you will accept service based on the terms above by 12pm tomorrow (2/10). Otherwise, we will have to explore service by other means, which we very much would prefer not to do.

Thanks,

Andrew

Andrew S. Todres

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From: Brian Burns <brian.burns@smithvillazor.com>

Sent: Thursday, February 09, 2023 1:53 PM

To: Todres, Andrew <Andrew.Todres@ropesgray.com>; Patrick Smith <patrick.smith@smithvillazor.com>

Cc: Bebchick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>

Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Andrew - Without waiver of any objections, and provided that you agree to March 2, 2023 as the deadline to serve any responses and objections to the subpoena, we would be authorized to accept service of the subpoena. Please confirm whether you agree to that proposal.

Thanks,
Brian

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From: Brian Burns

Sent: Wednesday, February 8, 2023 5:24 PM

To: 'Todres, Andrew' <Andrew.Todres@ropesgray.com>; Patrick Smith <patrick.smith@smithvillazor.com>

Cc: Bebachick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>

Subject: RE: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Thanks. I will check with the client about accepting service and get back to you.

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From: Todres, Andrew <Andrew.Todres@ropesgray.com>

Sent: Wednesday, February 8, 2023 5:03 PM

To: Brian Burns <brian.burns@smithvillazor.com>; Patrick Smith <patrick.smith@smithvillazor.com>

Cc: Bebachick, Lisa <Lisa.Bebchick@ropesgray.com>; Hennes, David <David.Hennes@ropesgray.com>

Subject: [EXTERNAL EMAIL] Doe v. Deutsche Bank, 22cv10018 (S.D.N.Y.) - Subpoena to Epstein Victims' Compensation Program

Brian,

Good speaking with you. As discussed, attached is a copy of Deutsche Bank's subpoena to the Epstein Victims' Compensation Program in the above-captioned action. Please let us know if your firm will accept service on behalf of the Program as soon as possible.

We remain available to discuss.

Best,
Andrew

Andrew S. Todres

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